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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,281	02/03/2006	Gerrit Jan Nieuwenhuis	MULLE45.001APC	6247
20995 7590 02/20/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER BUI, LUAN KIM	
			ART UNIT 3728	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		02/20/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/20/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/541,281

Applicant(s)

NIEUWENHUIS, GERRIT JAN

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/3/06</u> . | 6) <input type="checkbox"/> Other: ____  |

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the straight incisions which extend from said upper edge to the external circumference of the opening and further extend beyond the lower circumferential edge over a length ... as recited in claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "whereafter" is incomplete and indefinite.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner (6,068,128). Gardner discloses in the embodiment of Figure 7 a foil bag (701) comprising a bag having a sealed bottom, a number of punched openings (129) with one or more openings located adjacent to the upper edge, one or more incisions (734) located at a certain distance from the opening in a circumferential direction in such a way that during the opening process of the folded foil bag during a first step the front of the flat folded foil bag portion is configured to be pulled off the support and consequently during a second step the rearward flat foil bag portion is configured to be pulled off from the support.

As to claim 4, Gardner further discloses the rearward flat foil bag portion has no incisions extending from the upper edge to the opening (column 7, lines 1-4).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-7, 9, 10, 12-14, 16, 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner (6,068,128) in view of Gates (6,318,893) or Conrad et al. (5,062,716; hereinafter Conrad'716). Gardner discloses the foil bag (701) in the embodiment of Figure 7 as above having all the limitations of the claims except for at least one incision being extended from the upper edge to the opening. Gates shows a bag (50) having at least one opening (22) with an incision extending from the upper edge to the opening (Figure 6). Conrad'716 teaches a bag having at least one opening (10) with an incision (12) extending from the upper edge to the opening (Figure 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Gates or Conrad'716 to modify the bag of Gardner so the incision is extending from the upper edge to the opening to facilitate removing the bag from the support. As to claim 6, Gardner discloses the front side folds have openings and incisions similar to the front flat foil bag portion (Figure 7). As to claim 7, see Figure 6 and column 7, lines 5-8.

8. Claims 8, 11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 3 above, and further in view of Meyer et al. (6,575,300; hereinafter Meyer'300). The bag of Gardner as modified further fails to show at least one

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incision being extended in a radial direction with respect to the circular opening. Meyer'300 shows a bag having at least one incision (9) extended in a radial direction with respect to the interlocking point (12). It would have been obvious to one having ordinary skill in the art in view of Meyer'300 to modify the incision of Gardner so at least one incision extends in a radial direction with respect to the circular opening for removing the bag from the support because the selection of the specific shape for the incision such as the incision as claimed or disclosed by the references as applied would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not state that using these specific shapes as claimed solves any particular problem or yields any unexpected results.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Wilfong, Jr. (4,995,860). The bag of Gardner further fails to show the incision being extended beyond the lower circumferential edge over a length of at least a few mm to about 2 cm. To the extent that the Examiner can determine the scope of the claim, Wilfong shows a bag (11) comprising mounting apertures (20) with each mounting aperture including incisions extending (21, 34) beyond the lower edge of the mounting aperture (Figure 14). It would have been obvious to one having ordinary skill in the art in view of Wilfong to modify the incision of the bag of Gardner so the incision extends beyond the lower circumferential edge of the opening to facilitate removing the bag from the support. With respect to the length of the incision, it would have been obvious to one having ordinary skill in

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the art to modify the incision of the bag of Gardner as modified so it has the length as claimed because such length would have been an obvious matter of design choice.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb  
February 12, 2007



Luan K. Bui  
Primary Examiner  
Art Unit 3728